

**MINUTES OF THE
REVENUE AND TAXATION INTERIM COMMITTEE**
Wednesday, November 19, 2008 – 9:00 a.m. – Room C445 State Capitol

Members Present:

Sen. Wayne L. Niederhauser, Senate Chair
Rep. John Dougall, House Chair
Sen. Curtis S. Bramble
Sen. Mike Dmitrich
Sen. Brent H. Goodfellow
Sen. Howard A. Stephenson
Pres. John L. Valentine
Rep. Douglas C. Aagard
Rep. Rebecca Chavez-Houck
Rep. Tim M. Cosgrove
Rep. Julie Fisher
Rep. Craig A. Frank
Rep. Gage Froerer

Rep. Wayne A. Harper
Rep. Fred R. Hunsaker
Rep. Rosalind J. McGee
Rep. Carol Spackman Moss
Rep. Merlynn T. Newbold
Rep. Paul Ray
Rep. Aaron Tilton

Staff Present:

Mr. Phillip V. Dean, Policy Analyst
Mr. Bryant R. Howe, Assistant Director
Ms. Angela D. Oakes, Associate General Counsel
Ms. Rebecca L. Rockwell, Associate General Counsel
Ms. Phalin L. Flowers, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Niederhauser called the meeting to order at 9:11 a.m.

Mr. Howe discussed "2008 Federal Taxes Changes with a Direct Impact on Utah Taxes," a letter regarding individual income tax credits and corporate franchise and income tax credits, "Calendar Year Income Tax Non-Refundable Credits," "Calendar Year Corporate Tax Non-Refundable Credits," and "Calendar Year Contributions for Income Tax Checkoffs," which were distributed prior to the meeting.

Mr. Keith Prescott, Chair, Utah Tax Review Commission (TRC), gave a brief history of the TRC. He reviewed what the TRC has been studying this year. Mr. Prescott informed the Committee that the TRC had no recommendation on oil and gas severance taxes at this time. He also reported that the TRC recommends that the Committee adopt 2009 General Session draft legislation, "Severance Tax Amendments."

Ms. Oakes distributed and discussed 2009 General Session draft legislation, "Severance Tax Amendments."

MOTION: Sen. Stephenson moved to adopt 2009 General Session draft legislation, "Severance Tax Amendments," as a committee bill with amendments as necessary to adjust dates in the bill to prevent issues with balancing the budget. The motion passed unanimously with Sen. Bramble, Rep. Frank, Rep. McGee, Rep. Moss, Rep. Ray, and Rep. Tilton absent for the vote.

President Valentine said that he supports the motion and the concept behind the legislation, and also supports amending the dates in the bill. He said it is good policy to set aside revenue from a depleting asset.

Sen. Goodfellow expressed support for the motion.

Mr. Prescott reported that a working group of the TRC has been studying the taxation of pass-through entities throughout the interim and that the TRC adopted legislation amending how pass-through entities are taxed.

Ms. Rockwell discussed 2009 General Session draft legislation, "Income Taxation of Pass-Through Entities and Pass-Through Entity Taxpayers," which was distributed prior to the meeting. She explained that a pass-through entity is an entity which, with some exceptions, is generally not subject to income tax at the entity level. Rather, the income, gain, loss, deduction, or credit of the pass-through entity is passed through to the owners. An owner's share of these amounts is then included in determining the owner's income tax liability. She noted that a key provision of the proposed legislation is to not tax income from an S corporation at the entity level. Ms. Rockwell also explained that a significant change in the bill is to expand withholding requirements. She said that under current law, an S corporation is required to withhold from nonresident shareholders. Under the bill, all pass-through entities are required to withhold from a resident or nonresident business entity or a nonresident individual. Ms. Rockwell noted that the only exceptions from withholding requirements are for resident individuals or Internal Revenue Code Section 501 entities.

Sen. Niederhauser complemented the efforts of the TRC working group that developed the draft legislation.

MOTION: Sen. Goodfellow moved to adopt 2009 General Session draft legislation, "Income Taxation of Pass-Through Entities and Pass-Through Entity Taxpayers," as a committee bill. The motion passed unanimously with Sen. Dmitrich, Rep. Harper, and Rep. McGee absent for the vote.

Rep. Dougall noted that "Revenue Summary - Four Months FY 2008-09" was in the packet of handouts.

2. Transparency in Government Finance

Sen. Niederhauser introduced this item.

Mr. Michael Rice, Utah Interactive, presented a prototype website that would enhance transparency in the reporting of state and local government financial information. He said that the website will provide important financial reporting information to citizens. He demonstrated how the website could be used to obtain financial records for state agencies and showed some examples of other states' financial reporting information websites.

Sen. Niederhauser distributed and discussed 2009 General Session draft legislation, "Utah Transparency Advisory Board Amendments."

Rep. Chavez-Houck suggested that information also be provided that provides a context for the financial information.

Mr. Stan Rasmussen, Manager of Public Affairs, Sutherland Institute, spoke in support of the draft legislation and increased efforts for state and local government transparency in the reporting of financial information.

Mr. Lincoln Shurtz, Utah League of Cities and Towns (League), voiced concern with the Utah Transparency Advisory Board being given rulemaking authority, but noted that the League supports financial reporting transparency efforts.

Ms. Janet Robertson, Business Administrator, Salt Lake City School District, representing school business officials, noted that school districts already include financial information on their websites, but said that consolidating the information into one location is a good idea.

Mr. John Reidhead, Director, Division of Finance, clarified several points in the draft legislation. He noted that municipalities will not have to host their own websites to comply with the legislation. Municipalities can post the information on the central state transparency website as well as their own websites.

Mr. Larry Richardson, Salt Lake County Treasurer, noted that the Division of Finance, not the Utah Transparency Advisory Board, would be given rulemaking authority. He voiced concerns over giving the Division of Finance rulemaking authority and about the large storage capacity that would be required to store all the information. He also raised concerns about data security and privacy. Mr. Richardson also pointed out that the draft legislation only makes reference to fiscal year entities, and that many special districts operate on a calendar year.

Mr. Royce Van Tassell, Utah Taxpayers Association, spoke in support of the draft legislation and increased governmental transparency.

Mr. LeGrand Bitter, Utah Association of Special Districts, spoke in support of the increased transparency principles being proposed.

MOTION: Rep. Frank moved to adopt 2009 General Session draft legislation, "Utah Transparency Advisory Board Amendments," as a committee bill. The motion passed unanimously with Sen. Dmitrich, Rep. Harper, and Rep. McGee absent for the vote.

3. Higher Education Tuition Credit

Rep. Dougall introduced this topic. He distributed and discussed 2009 General Session draft legislation, "Nonrefundable Higher Education Tuition Credit."

Sen. Goodfellow said that he supports the draft legislation and that he is also concerned with recent increases in student tuition.

Rep. Moss asked if the credit could be applied against scholarships or other forms of financial aid. Rep. Dougall said that the credit is applied against tuition paid after scholarships or other financial aid.

Mr. Dave Buhler, Associate Commissioner of Higher Education, spoke in support of the draft legislation and the credit.

MOTION: Rep. Hunsaker moved to adopt 2009 General Session draft legislation, "Nonrefundable Higher Education Tuition Credit," as a committee bill. The motion passed with Rep. McGee voting in opposition and Sen. Dmitrich and Pres. Valentine absent for the vote.

4. Utah State Tax Commission Agency Bills

Commissioner Bruce Johnson, Utah State Tax Commission, distributed and discussed "2009 Tax Commission Legislative Package." He reviewed the following draft legislation:

- 2009 General Session draft legislation, "Cigarette Tax Exemption Amendments,"
- 2009 General Session draft legislation, "Amendments to Sales and Use Tax Exemption for Certain Machinery, Equipment, or Parts,"
- 2009 General Session draft legislation, "Amendments to Vehicle Registration Requirements,"
- 2009 General Session draft legislation, "Withholding Tax Amendments,"
- 2009 General Session draft legislation, "Amendments to Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act,"
- 2009 General Session draft legislation, "Sales and Use Tax Definitions Relating to Property,"
- 2009 General Session draft legislation, "Sales and Use Tax Amendments,"
- 2009 General Session draft legislation, "Exemptions from Requirements to Deduct and Withhold an Income Tax,"
- 2009 General Session draft legislation, "Sales and Use Tax - Determining the Location of Certain Transactions," and
- 2009 General Session draft legislation, "Reporting of Certain Transactions Exempt from Sales and Use Taxes," which were distributed prior to the meeting.

Ms. Rockwell distributed and discussed an amendment to 2009 General Session draft legislation, "Reporting of Certain Transactions Exempt from Sales and Use Taxes."

MOTION: Rep. Dougall moved to adopt amendments to 2009 General Session draft legislation, "Reporting of Certain Transactions Exempt from Sales and Use Taxes." The motion passed unanimously with Sen. Dmitrich, Pres. Valentine, and Rep. Moss absent for the vote.

MOTION: Rep. Cosgrove moved to adopt:

- 2009 General Session draft legislation, "Cigarette Tax Exemption Amendments,"
- 2009 General Session draft legislation, "Amendments to Sales and Use Tax Exemption for Certain Machinery, Equipment, or Parts,"
- 2009 General Session draft legislation, "Amendments to Vehicle Registration Requirements,"
- 2009 General Session draft legislation, "Withholding Tax Amendments,"
- 2009 General Session draft legislation, "Amendments to Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act,"
- 2009 General Session draft legislation, "Sales and Use Tax Definitions Relating to Property,"
- 2009 General Session draft legislation, "Sales and Use Tax Amendments,"
- 2009 General Session draft legislation, "Exemptions from Requirements to Deduct and Withhold an Income Tax,"
- 2009 General Session draft legislation, "Sales and Use Tax - Determining the Location of Certain Transactions," and
- 2009 General Session draft legislation, "Reporting of Certain Transactions Exempt from Sales and Use Taxes," as amended, as committee bills.

SUBSTITUTE MOTION: Rep. Frank moved to adopt:

- 2009 General Session draft legislation, "Cigarette Tax Exemption Amendments,"

- 2009 General Session draft legislation, "Amendments to Sales and Use Tax Exemption for Certain Machinery, Equipment, or Parts,"
- 2009 General Session draft legislation, "Amendments to Vehicle Registration Requirements,"
- 2009 General Session draft legislation, "Withholding Tax Amendments,"
- 2009 General Session draft legislation, "Amendments to Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act,"
- 2009 General Session draft legislation, "Sales and Use Tax Amendments,"
- 2009 General Session draft legislation, "Exemptions from Requirements to Deduct and Withhold an Income Tax,"
- 2009 General Session draft legislation, "Sales and Use Tax - Determining the Location of Certain Transactions," and
- 2009 General Session draft legislation, "Reporting of Certain Transactions Exempt from Sales and Use Taxes," as amended, as committee bills.

The substitute motion passed unanimously with Sen. Dmitrich, Sen. Stephenson, Pres. Valentine, Rep. Hunsaker, and Rep. McGee absent for the vote.

MOTION: Rep. Dougall moved to adopt 2009 General Session draft legislation, "Sales and Use Tax Definitions Relating to Property," as a committee bill. The motion passed with Rep. Aagard, Rep. Fisher, Rep. Frank, and Rep. Newbold voting in opposition and Sen. Dmitrich, Sen. Stephenson, Pres. Valentine, Rep. Hunsaker, and Rep. McGee absent for the vote.

5. Expanding Age Eligibility for Circuit Breaker Tax Relief for Homeowners

Mr. Thomas Young, Fiscal Analyst, Office of the Legislative Fiscal Analyst, discussed the impact that expanding the age eligibility for the circuit breaker program would have on taxpayers around the state. He said that removing the age eligibility requirement for the circuit breaker program is estimated to result in a loss to the General Fund of \$10.4 million in fiscal year 2010.

Rep. Chavez-Houck requested that this item be included on the agenda for the next meeting.

6. Consolidation of Property Tax Levies Imposed by School Districts

Rep. Dougall introduced this item.

Ms. Oakes distributed and discussed "Comparison of School District Revenue Sources Proposals" and 2009 General Session draft legislation, "Property Tax Revisions."

Mr. Royce Van Tassell, Utah Taxpayers Association, said that he looks forward to working with the sponsor of the draft legislation to create a plan that is beneficial to all affected parties.

7. Public School Funding Equalization

Rep. Newbold distributed and discussed 2009 General Session draft legislation, "Property Tax Amendments," and "2007 School District Property Tax Rates and Revenues - Summary."

Mr. Van Tassell voiced concerns about the effect of removing significant property taxes from the truth in taxation process.

Rep. Harper distributed and discussed 2009 General Session draft legislation, "Public School Funding," and "2007 School District Property Tax Levy Rates and Estimated Revenues - Detail."

Mr. Jim Olsen, President, Utah Retail Merchants Association and Utah Food Industry, spoke in opposition to the draft legislation. He said the proposal would create a shift from one of the lowest taxes in the state to one of the highest taxes in the state.

Mr. Van Tassell voiced concerns with the draft legislation.

8. Sales and Use Tax Exemption for College Textbooks

Due to lack of time, this item was not discussed.

9. Income Tax Contribution for Donations to the Methamphetamine Housing Reconstruction and Rehabilitation Fund

Due to lack of time, this item was not discussed.

10. Other Items / Adjourn

MOTION: Rep. Hunsaker moved to adjourn the meeting. The motion passed unanimously with Sen. Bramble, Sen. Dmitrich, Pres. Valentine, and Rep. Fisher absent for the vote.

Chair Niederhauser adjourned the meeting at 12:05 p.m.